



An
Coimisiún
Pleanála

Inspector's Report ACP-321910-25

Development

Retention and completion of 8 dwelling houses - 9 to 16 inclusive Garraí Mhic Aodha, Ballyhugh, Gort and to construct 32 dwelling houses - 17 to 20 inclusive Garraí Mhic Aodha, Ballyhugh, Gort and 1 to 28 inclusive Gort An Choirce, Ballyhugh, Gort

Location

Ballyhugh, Gort, Co. Galway

Planning Authority

Galway County Council

Applicant(s)

Newmar Developments

Type of Application

Substitute Consent S177E, Planning & Development Act 2000 (as amended)

Prescribed Bodies

1. An Taisce
2. Development Applications Unit DoHLGH
3. Inland Fisheries Ireland
4. Heritage Council
5. Irish Water

Observers

None

Date of Site Inspection

20th November 2025

Inspector

Sarah O'Mahony

Contents

1.0 Introduction	4
1.1. Context	4
1.2. Pre-Application Consultations	4
1.3. Site Location and Description	4
2.0 Planning History.....	5
3.0 Development Description.....	8
3.1. Description of Development.....	8
3.2. Documents that accompany this application	9
4.0 Applicant's Statement of Exceptional Circumstances	9
5.0 Policy Context.....	9
5.1. The EU Habitats Directive (92/43/EEC)	9
5.2. European Communities (Birds and Natural Habitats) Regulations 2011	10
5.3. Planning and Development Act 2000, as amended	10
5.5. County Development Plan	11
5.6. Gort Local Area Plan 2025-2031.....	12
6.0 Submissions & Observations	12
6.1. Planning Authority Submissions.....	12
6.2. Prescribed Bodies.....	16
6.3. Observations.....	16
6.4. Applicant's Response	16
7.0 Assessment	18
7.1. Introduction	18
7.2. Assessment of Exceptional Circumstances	18

7.3.	Proper Planning and Sustainable Development Matters.....	20
7.4.	Environmental Impact Assessment Screening Determination.....	21
7.5.	Appropriate Assessment.....	22
7.6.	Screening Determination for WFD	23
8.0	Recommendation.....	24
9.0	Reasons and Considerations.....	24
10.0	Conditions	25
11.0	Draft Board Order	31
	Appropriate Assessment: Stage 1	31
	Appropriate Assessment: Stage 2	32
	Likely Effects on the Environment/Environmental Impact Assessment.....	33
	Appendix 1 – Remedial EIA Pre-Screening.....	34
	Appendix 2 – Appropriate Assessment	38

1.0 Introduction

1.1. Context

- 1.1.1. This is a direct application to the Coimisiún under Section 177E of the Planning and Development Act, 2000. The applicant is the owner of the land and the application is accompanied by a Remedial Natura Impact Statement (rNIS).
- 1.1.2. The applicant sought retention and completion permission from Galway County Council under refs. 23/60216 and 24/60812 and in both cases the Local Authority invalidated the application stating there was unauthorised development on the site. This is set out in more detail later.
- 1.1.3. The applicant disputes this finding and highlights how there is no enforcement case on the site, but that there are no other remaining options to regularise and complete the development.
- 1.1.4. The applicant outlines how the development was approved under numerous planning applications, some of which were extended as set out in the planning history later in this report. The Planning Authority refused permission for one extension of duration application (ref. 21/2311) however and the applicant states that Judicial Review proceedings have commenced against this Local Authority's decision.
- 1.1.5. The applicant states that due to the aforementioned refusal in permission, the approved development could no longer be completed as the appropriate period expired.

1.2. Pre-Application Consultations

- 1.2.1. No pre-application consultation was undertaken.

1.3. Site Location and Description

- 1.3.1. The 1.67ha site is situated on the southern outskirts of Gort in County Galway, accessed from the L4514 local road and situated immediately opposite, and to the east, of St. Colman's Park sportsgrounds.

- 1.3.2. It comprises an inactive construction site which is the final phases of an occupied housing scheme of 132no. dwellings. All the development outside of this site but within the wider housing scheme appears to be completed and occupied with landscaping, lighting and top course road surfaces etc all in place. The housing estate comprises two connected schemes referred to as Garraí Mhic Aodha and Gort An Choirce in the application documents.
- 1.3.3. Within the subject site itself the foundations and wall plates of some units are visible and the remainder of the site comprises brownfield land where most topsoil has been removed and the land appears to have been subject to groundworks and disturbance.
- 1.3.4. Access to the overall scheme is provided from the L4514 at the west. There is a vehicular entrance at the north of the overall scheme which provides a finished road surface to the occupied dwellings. This main entrance connects to the subject site and heras fencing is in place to prevent access. There is also a separate gated construction style entrance from the L4514 at the south to the subject site.
- 1.3.5. The Cannahowa River is situated 60m east of the site between landscaped public open space and agricultural land. The Galway-Limerick railway track is situated 300m east of the site.

2.0 Planning History

- 08/2336: Planning permission granted for 132 houses, a 3-storey block containing apartments, Crèche and shop and all site development works, including a sewage pumping plant.
- 14/502: Extension of Duration granted to extend the appropriate period of Ref. No: 08/2336.
- 18/741: Planning permission granted to alter crèche/commercial/residential block previously granted permission Ref. No. 14/502 to include alterations to crèche, elimination of commercial units and replacement with 7 no. 2 bed apartment at ground floor and 4 no. apartments at first floor. Gross floor space of proposed works 1263 sqm.

- 19/738: Extension of Duration granted to extend the appropriate period of Ref. No: 08/2336 and 14/502.
- 19/989: Planning permission granted to change the house design of 16no. units on Garraí Mhic Aodha.
- 20/780: Retention permission granted for change to house design on sites 1 to 4 and 29 to 30 and retention of elevation alterations to sites 21 to 28 and 31 to 47.
- 20/1010: Planning permission granted for change of house plans on Sites 1 – 73 Gort Na Choirche.
- 20/1780: Permission granted for retention and completion of dwelling houses on Sites 5 – 8 Garraí Mhic Aodha.
- 21/1752: Retention permission granted to change the use of houses 1 and 2 Garraí Mhic Aodha from private dwelling house to a single community dwelling house.
- 21/2311: Permission refused to extend the duration for changed house plan on sites '1 to 73' previously granted permission under pl. Ref. No 08/2336 & 14/502 & 19/738. The applicant states this decision was judicially reviewed.
- 22/444: Permission refused to extend the duration of 19/989 for the change of house plans on 16 sites previously granted permission under Planning Ref Nos 08/2336 & 14/502.
- 22/445: Permission refused to extend the duration for changed house plan on sites '1 to 73' previously granted permission under pl. Ref. No 08/2336 & 14/502 & 19/738.
- 22/446: Permission refused to extend the duration of: to construct (1) 132 no. houses comprising 5 no. single storey detached houses, 8 no. detached 2 storey houses, 30 no. 2 storey semi-detached houses, 50 no 2 storey semi-detached houses, 39 no 2/3 storey terraced houses. (2) 6 no. 2 bed apartments/creche/2 no. shop units and associated signage in 1 no. 3 storey block. (3) All associated site development works to include car parking, riverside walk/access, playground and amenity areas, roads, paths and boundaries/landscaping. (4) All associated services including foul sewage sump and pumping plant, development of the full capacity of a

water supply bore hole on site with pump house and treatment plant and 80m cubed water storage tank to supply water to the development and adjoining areas. (5) 2 no. ESB sub-stations and 1 no. meter room (gross floor space 17,117.8sqm) (Previous planning ref no.08/2336) Previous planning Ref. No. 14/502 & 18/741.

- 22/60571, ABP-314335-22. Retention permission sought for elevation alterations to an apartment and crèche block previously granted under Pl. No: 18/741. The Local Authority refused permission for two reasons relating to appropriate assessment and intensification of unauthorised use. This decision was overturned by An Bord Pleanála following a first party appeal.
- 23/60216: Permission sought for retention and completion of 8 dwelling houses (9 to 16 Garraí Mhic Aodha) and to construct 32 dwelling houses 17 – 20 inclusive in Garraí Mhic Aodha, and 1 to 28 inclusive at Gort An Choirce. The application was invalidated for the following reason:

The Planning Authority under Part III, Section 34(12) of the Planning and Development Act, 2000 (as amended) cannot consider the application in this instance.

The application has been screened for appropriate assessment which has determined that an Appropriate Assessment is required. As this is an application which involves a portion of retention of unauthorised development, under Section 34(12) of the Planning and Development Act, 2000 (as amended), a Planning Authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required Appropriate Assessment.

Following the screening process, it has been determined that likely significant effects to the European sites cannot be excluded. By virtue of the requirement for protection or mitigation measures required during construction and operation of the proposed development, the recommendation of the screening process is, therefore, to proceed to Stage Two: Appropriate Assessment.

- 24/60812: Permission sought for retention and completion of 8 dwelling houses - 9 to 16 inclusive Garraí Mhic Aodha, and to construct 32 dwelling houses - 17 to 20

inclusive Garraí Mhic Aodha and 1 to 28 inclusive Gort An Choirce. The application was invalidated for the following reason:

The application has been screened for appropriate assessment which has determined that an Appropriate Assessment is required. As this is an application which involves a portion of retention of unauthorised development, under Section 34(12) of the Planning and Development Act, 2000 (as amended), a Planning Authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required Appropriate Assessment.

3.0 Development Description

3.1. Description of Development

3.1.1. The development description on the statutory notices states that Substitute Consent is sought for:

- the retention and completion of 8 dwelling houses - 9 to 16 inclusive Garraí Mhic Aodha, Ballyhugh, Gort and
- to construct 32 dwelling houses - 17 to 20 inclusive Garraí Mhic Aodha, Ballyhugh, Gort and 1 to 28 inclusive Gort An Choirce, Ballyhugh, Gort.

3.1.2. Following a site inspection and review of the documents submitted with the application I note the 40no. units in total form one long row but comprise two separate named character areas within the overall permitted scheme.

3.1.3. I noted the following regarding the 8no. units seeking retention and completion permission:

- The groundfloor blockwork is in place as well as a concrete first floor but no first-floor blockwork was present. These partially constructed units were surrounded by scaffolding during the site inspection. The rNIS also states that sewers and service ducts have been installed and the road for this phase is at formation level.

3.1.4. I did not note any foundations or works above ground level for the remaining 32no. units during the site inspection beyond a foundation slab for one pair of units. I noted two pairs of low retaining walls situated either side of the location of the permitted internal access road. The road is a hardcore track which currently terminates at a blockaded connection to the remainder of the completed estate. The applicant's cover letter states that work has not commenced for no. 1-28 Gort an Choirce while the rNIS states '*No significant construction works in relation to the houses has taken place. The sewers and service ducts have been installed or partly installed and the road is at formation level.*'

3.2. Documents that accompany this application

- Cover letter and planning statement with exceptional circumstances.
- Remedial Natural Impact Statement.
- Part V compliance letter.
- Uisce Éireann connection offer.

4.0 Applicant's Statement of Exceptional Circumstances

4.1. The applicant has not specially addressed or referenced the 7no. criteria set out in Section 177K of the Planning and Development Act 2000, as amended which set out the grounds to demonstrate and consider exceptional circumstances. The cover letter/planning statement however sets out a detailed planning history and Section 10 refers to exceptional circumstances. It states that the decisions of the Local Authority have resulted in this substitute consent application being the only option available to complete the development.

5.0 Policy Context

5.1. The EU Habitats Directive (92/43/EEC)

5.1.1. This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Articles 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own

and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).

5.2. European Communities (Birds and Natural Habitats) Regulations 2011

- 5.2.1. These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.

5.3. Planning and Development Act 2000, as amended

- 5.3.1. Part XA of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives. The basis for substitute consent is set out in Part XA of the Planning and Development Act, 2000, as amended, and section 177E references application for substitute consent. Section 177K (1A)(a) 'Decision of the Commission' states the following:

The Commission shall not grant substitute consent (whether subject to conditions or not) unless it is satisfied that exceptional circumstances exist that would justify the grant of such consent by the Commission.

(1J) In considering whether exceptional circumstances exist under subsection (1A)(a) the Commission shall have regard to the following matters:

- (a) whether regularisation of the development concerned would circumvent the purpose and objectives of the Environmental Impact Assessment Directive or the Habitats Directive;*
- (b) whether the applicant had or could reasonably have had a belief that the development was not unauthorised;*

- (c) whether the ability to carry out an assessment of the environmental impacts of the development for the purpose of an environmental impact assessment or an appropriate assessment and to provide for public participation in such an assessment has been substantially impaired;*
- (d) the actual or likely significant effects on the environment or adverse effects on the integrity of a European site resulting from the carrying out or continuation of the development;*
- (e) the extent to which significant effects on the environment or adverse effects on the integrity of a European site can be remediated*
- (f) whether the applicant has complied with previous planning permissions granted or has previously carried out an unauthorised development;*
- (g) such other matters as the Commission considers relevant.*

5.4. National & Regional Policy & Guidelines

- Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2010)
- OPR Practice Note PN01 'Appropriate Assessment Screening for Development Management' (Office of the Planning Regulator, March 2021)
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (Department of Housing, Planning and Local Government, 2018)
- OPR Practice Note PN02 'Environmental Impact Assessment Screening' (Office of the Planning Regulator, June 2021)

5.5. County Development Plan

- 5.5.1. The site is governed by the policies and provisions contained in the Galway County Development Plan 2022-2028 (referred to hereafter as the CDP).
- 5.5.2. The following policy objectives apply:
 - CS2 Compact Growth
 - NHB 2 European Sites and Appropriate Assessment
 - NHB 3 Protection of European Sites

5.6. Gort Local Area Plan 2025-2031

- 5.6.1. The site is zoned Existing Residential which has the following objective: To protect and improve the residential amenities of existing residential areas. A further description of the objective is provided as follows: To provide for house improvements, alterations, and extensions of residential development in accordance with principles of good design and protection of existing residential amenities.

6.0 Submissions & Observations

6.1. Planning Authority Submissions

6.1.1. Galway County Council (GCC) – Chief Executive’s Report

- 6.1.2. The report sets out the planning history on the site and notes there is no enforcement action or cases pertaining to the site. It highlights there was no Local Area Plan in place for Gort at the time of writing the report but that the Chief Executive’s Report on the draft LAP was published. Note: An Coimisiún should note that LAP has since been adopted.
- 6.1.3. The report highlights a list of 68no. County Development Plan objectives including core strategy and settlement pattern matters, placemaking and urban development/design, residential design and layout, transport, infrastructure, tourism, natural heritage, community and social infrastructure, built heritage, climate and energy. It also lists 22no. development management standards.
- 6.1.4. It screened out Environmental Impact Assessment on the basis of the scale of the development which it states is significantly below the thresholds for relevant classes of development requiring EIA and that *‘there is no real likelihood of significant effects on the environment’*.
- 6.1.5. With regard to Appropriate Assessment, the report notes the applicant’s rNIS which states there is no hydrological connection between the site and the Coole-Garryland Complex SAC/SPA. The report however states that based on the planning history on the site *‘it is noted that the Planning Authority have serious concerns with this statement due to the proximity of the site to the nearby Cannahowa River’*. The

report suggests there is a hydrological connection provided by this river as well as from the flood risk associated with the site.

- 6.1.6. It recommends that An Coimisiún must be satisfied that the development will not impact on qualifying interests and habitats, on water quality and on downstream wetland habitats and Flora Protected Order species and that *'In the event planning is granted the Planning Department of Galway County Council recommends that all mitigation measures as outlined in Section 6.3 of the remedial Natura Impact Statement be a condition of planning.'*
- 6.1.7. With regard to flooding, the report advises that the site is situated within Flood Zones A and B according to the Strategic Flood Risk Assessment set out in the Draft LAP.
- 6.1.8. It does not set out any opinion as to whether the Planning Authority considers the development to be acceptable, make any ultimate recommendation to grant or refuse permission or provide any consideration of the exceptional circumstances. It goes on however to recommend 29no. conditions to be attached in the event that planning permission is granted which are summarised and assessed in Table 1 below. Please note the Planning Authority's report refers to 30no. conditions however there is no 'number 12' provided.

	Galway County Council	Included/ excluded in Schedule of Conditions
1	Development to be carried out in accordance with plans and particulars lodged	Included
2	rNIS and EclA mitigation measures to be implemented in full Preparation of a CEMP including an Ecological Clerk of Works and certification of mitigation measures.	Partially included
3	Compliance with DMURS and the NTA Cycle Design Manual including detailed specifications for gradients, turning heads, revised car parking layout near conflict points and marking and signage. To be agreed via compliance.	Not included as the road design has already been agreed and permitted. I consider the portion of roads, car parking and turning heads etc within the subject site remaining to be constructed should all comply with the permitted scheme. Also provided for in no. 9 below.

4	Detailed design of public road and footpaths to be agreed via compliance and subject to a Road Safety Audit.	Not included as the road design has already been agreed and permitted. I consider the portion of roads, car parking and turning heads etc within the subject site remaining to be constructed should all comply with the permitted scheme. Also provided for in no. 9 below.
5	Stormwater design to be subject to a Detailed Design Stage Stormwater Audit and agreed via compliance.	Not included as the stormwater design was previously permitted and is largely operational.
6	Stage 2 Road Safety Audit to be agreed via compliance.	Not included as per no. 4 above.
7	Stage 3 Road Safety Audit to be agreed via compliance.	Not included as per no. 4 above.
8	Prevent dirt and debris spillage on the public road.	Not included as provided for in CEMP no. 2 above.
9	Development to comply with Taking in Charge requirements and to be agreed via compliance.	Included
10	Traffic Management Plan to be agreed via compliance for construction phase. Road Opening Licence to be obtained.	Not included as Construction phase TMP provided for in CEMP no. 2 above. ROL not included as does not fall under planning legislation.
11	Financial bond for satisfactory reinstatement of the public road, provision of footpaths, drains, open space and other services.	Included
12	N/A	N/A
13	E-charging spaces to be agreed via compliance	Included as this is a new provision in the CDP compared to the 2009 parent permission.
14	Surface water to be disposed of within the site and not increase likelihood of flooding adjacent land.	Not included as provided for in no. 5 above.
15	Detailed construction stage traffic management plan.	Not included as Construction phase TMP provided for in CEMP no. 2 above as well as duplicating no. 10.
16	Uisce Éireann connection agreements.	Included. Note a connection offer is included in the application documents but is dated 2020 and requires agreement within 90 days. It is unclear if this was agreed and

		therefore a standard condition should be attached.
17	Service cables to be underground.	Not included having regard to the scale of works already completed on the overall scheme and the scale of works proposed in this site.
18	Construction emissions including dust, odour, litter and waste/debris	Not included as provided for in CEMP no. 2 above.
19	Boundary wall specifications	Included as application drawings do not include these details.
20	Management Company to be agreed via compliance.	Included.
21	Naming and numbering scheme to be agreed via compliance.	The housing schemes have already been named in the application documents and the numbering is clearly laid out on the application drawings, however in the interest of completeness and clarity I recommend this condition is included as it is not clear if the names have been agreed with the Planning Authority.
22	Part V to be agreed via compliance.	Not included as a Part V agreement is already in place for the parent permission and no increase in unit numbers is proposed.
23	Landscaping scheme to be agreed via compliance.	A landscaping scheme was provided with the application but does not provide the level of detail required by the Planning Authority and therefore a similar condition will be included.
24	Construction hours	Not included as provided for in CEMP no. 2 above.
25	Construction and Demolition waste management plan to be agreed via compliance.	Not included as provided for in CEMP no. 2 above.
26	Operational waste management plan	Not included as each unit is provided with adequate bin storage. No communal waste management is proposed.
27	Section 47 agreement to be agreed via compliance.	Included.
28	Taking in charge areas to be to be agreed via compliance.	Not included as provided for in no. 9 above.
29	'Standard ABP Bond Condition'	Not included as provided for in no. 11 above.

30	'Standard ABP Development Contribution Condition.'	Included
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Table 1: Recommended Conditions - In/Exclusion in Schedule of Conditions

6.1.9. Internal Reports

- None

6.2. Prescribed Bodies

6.2.1. Of the following prescribed bodies notified, no submissions have been received.

- An Taisce
- Development Applications Unit
- Inland Fisheries Ireland
- The Heritage Council
- Uisce Éireann

6.3. Observations

6.3.1. No observations were received.

6.4. Applicant's Response

6.4.1. The applicant disagrees with the Planning Authority's assertion that there is connectivity between the site and the Coole Garryland Complex SAC and SPA, as well as the flood risk categorisation and contends that the statement is based on inaccurate information.

6.4.2. The applicant considers the site is situated outside of the flood zone as also demonstrated by the Galway County Council pre-planning report which is electronically generated. The applicant also submitted a Flood Risk Assessment with the original planning application which was updated in 2019 and which concluded the site is not at risk of flooding. The applicant therefore contends that the site is not hydrologically linked to the SAC and SPA.

6.4.3. The applicant highlights conclusions drawn in an ABP inspectors report regarding ref. 314335-22 relating to elevational alterations which concluded that the site at that time, which was within the overall housing development but outside of the current subject site, did not have a likely potential to impact the European sites due to the

separation distances involved as well as the fact that the site was serviced and operational at that stage.

- 6.4.4. The applicant suggests that there is an 80m separation distance between the subject site and the Cannahowa river and this area forming the separation distance is completed and operational, forming housing and open space. The land is zoned for housing purposes and therefore the Planning Authority have already determined it is suitable for development.
- 6.4.5. There are no enforcement cases on the site and the overall housing scheme is 70-80% complete.
- 6.4.6. The response states '*Significant works associated with the site of the current application (ABP-321910-25) have already been completed including site clearing, site fill to formation level, sewers/ducting etc installed??, blockwork to 1st floor level in ?? houses and raft foundation in ?? houses. Furthermore, the South end of the site includes the temporary site accommodation/offices for the overall site and the temporary site entrance since the commencement of the development.*' The Commissioners will please note typographical errors such as '??' are direct quotations from the document submitted.
- 6.4.7. The applicant disagrees with the Planning Authority setting out conditions to be attached in the event of a grant of planning permission and considers a new set of conditions would not be practical or workable and would lead to incongruous development. It states that the development should not be treated as separate to the overall scheme but should be in keeping with it. The overall scheme has an approved planting scheme, naming and numbering scheme, lighting layout and management company etc. Some of the recommended conditions are irrelevant and copied from other schemes such as incorrect references to road numbers. It is unacceptable for the developer to employ an ecological clerk of works as this is based on the false assumption that the site is situated in a flood zone.
- 6.4.8. Condition no. 3 recommends changing the road design which is not acceptable at this stage as this development comprises completing an already occupied scheme. The layout was already permitted and accepted by the Local Authority under the parent permission and compliance with DMURS is not disputed.

- 6.4.9. Condition no. 4 recommends provision of a cycle lane which would not connect with any other cycle lane and be incongruous with the existing finishes in the wider scheme.
- 6.4.10. Condition no. 5 is disputed as 80% of the stormwater design is already in place and the public road referred to is not adjacent to the site. The applicant suggests that if the public road adjacent the site is the road intended, then catering to surface water from this would require replacing pipes already in situ in the operational housing estate. *'The Surface water audits are totally out of the question at this time.'* The applicant does note the requirement to construct the development in accordance with taking in charge specifications.
- 6.4.11. *'In relation to condition No. 6 is not acceptable. A road safety audit is not practicable at this time. The road design is simple and there is not even a junction to be constructed.'* The same is stated regarding condition no. 7.
- 6.4.12. The applicant's response goes on to dispute the provision/inclusion of another 12no. conditions largely on the basis that the majority of the housing scheme is already constructed and operational so therefore matters such as a lighting scheme, landscaping scheme and Part V agreement etc are already in place.

7.0 Assessment

7.1. Introduction

- 7.1.1. This assessment will consider the two tests for Substitute Consent. The assessment of this application considers whether the applicant complies with 'Exceptional Circumstances', as required under S177K of the Planning and Development Act, 2000, as amended and the appropriateness of the development having regard to the proper planning and sustainable development of the area. The assessment of the rNIS can be found in Appendix 2 of this report.

7.2. Assessment of Exceptional Circumstances

- 7.2.1. **Whether the Regularisation of the Development would Circumvent the Purpose and Objectives of the EIA Directive or the Habitats Directive**

Having regard to the characteristics of the proposed development and of the area there is no real likelihood of significant effects on the environment arising from the proposed development, such as to require an environmental impact assessment (EIA). Carrying out the development did not, therefore, circumvent the purpose and objectives of the Environmental Impact Assessment Directive.

As regards whether regularisation of the development concerned would circumvent the purpose and objectives of the Habitats Directive, this application process requires the preparation of a remedial Natura Impact Statement (rNIS) which was submitted with the application and did not recommend the undertaking of any additional mitigation measures. In my opinion the carrying out the development did not circumvent the purpose and objectives of the Habitats Directive.

7.2.2. Basis for a Reasonable Belief that the Development was not Unauthorised

There is nothing on the file to indicate otherwise than that the applicant had or could reasonably have had a belief that the development was not unauthorised. The applicant acted under the impression that the works were permitted and that Appropriate Assessment was screened out. The planning history of the site is noted, and in my opinion the applicant is making appropriate efforts to regularise the status of the existing development on the site through the substitute consent procedure and there is a reasonable belief that the development was not unauthorised.

7.2.3. Whether the carrying out of an assessment of the environmental impacts of the development, for the purposed of EIA or AA and to provide for public participation has been substantially impaired

In my opinion the ability to carry out an appropriate assessment and to provide for public participation in such an assessment has not been substantially impaired. The applicant advertised their intentions by the appropriate form of public notices and submitted them to the Board. No observations were received.

7.2.4. Actual or Likely Effects on the Environment or Adverse Effects on the Integrity of a European Site Resulting from the Carrying Out or Continuation of the Development

These matters are addressed above and conclude that environmental impacts on the environment or adverse effects on the integrity of a European site did not occur.

7.2.5. Extent to Which Such Effects can be Remediated

No remedial mitigation measures are identified / required.

7.2.6. Compliance with Previous Planning Permissions or if Carried Out Other Unauthorised Development

I note the applicant has complied with previous planning permissions and I am not aware of any other unauthorised development on the site.

7.2.7. Other Relevant Matters

There are no other relevant matters of which I am aware requiring highlighting to An Coimisiún.

7.2.8. Overall Conclusion on Exceptional Circumstances

I note the submissions received from the applicant and the exceptional circumstances as they have been set out. Given the foregoing, I am satisfied that the applicant has adequately demonstrated that there are exceptional circumstances pertaining, with specific reference to section 177K of the Planning and Development Act 2000 as amended

7.3. Proper Planning and Sustainable Development Matters

7.3.1. The site is zoned for residential use under the Gort Local Area Plan 2025-2031 and therefore I consider the principle of development is acceptable which complies policy objective CS2 regarding compact growth. I also note that the development was subject to a previous grant of planning permission and in this regard, it comprises the final phases of a wider housing scheme. Retaining and completing the units would improve the visual and residential amenity of the existing occupied dwellings and would represent sustainable development in my view.

7.3.2. The design and layout of the proposed units, access roads and public open space etc all follow the format of the permitted scheme which is an appropriate approach in my view to achieve consistency and coherence in placemaking. The subject site itself has very little public open space with only a narrow linear embankment proposed. However, An Coimisiún should be aware of the permitted and operational

large area of open space situated 50m east of the subject site and within the wider permitted scheme. This open space was intended to serve all occupants of the wider scheme and constitutes a meaningful amenity area in my view. I consider the lack of open space within the confines of the subject site is acceptable having regard to the wider masterplan and permitted scheme which has been completed.

- 7.3.3. I note very little information is provided with regard to materials and finishes however I recommend a condition is included which requires all such external materials to comply with those already in place in the adjacent scheme.
- 7.3.4. Overall, I consider the proposed development is acceptable and in keeping with the scale and character of surrounding areas and granting permission would represent proper planning and sustainable development.
- 7.3.5. I note Galway County Council's Chief Executive report on the application and the list of 29no. recommended conditions. I also note the applicant's response which suggests many of these should be omitted as they are onerous or irrelevant, and also as many of the items have already been agreed. I acknowledge that agreements are likely already in place such as for naming and numbering, materials and finishes, landscaping and access specifications. However, having regard to the absence of such agreements in the application documents, it would be inappropriate to grant permission without a degree of control over such matters. In this regard I have set out a number of conditions to be agreed with the Planning Authority in advance of the commencement of works in order to provide clarity on the situation without the requirement for significant additional reporting and resources on the either side.

7.4. Environmental Impact Assessment Screening Determination

- 7.4.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

7.5. Appropriate Assessment

7.5.1. Screening Determination

- 7.5.2. Galway County Council screened in appropriate assessment and determined that the development would likely result in significant effects on European Sites. This is stated in the reason for refusal provided for refs. 23/60216 and 24/60812. The European sites are not however specified.
- 7.5.3. The applicant's remedial Natura Impact Statement includes a screening exercise which is based on a 15km radius and '*any other sites further than this, but potentially within its zone of interest were also considered*'. In this regard it identified 28no. European sites but screened them all out with the exception of Coole-Garryland Complex SAC (Site code 000252) and Coole-Garryland SPA (Site code 004107). The other 26no. sites were screened out due to their separation distances, a lack of hydrological connectivity and the scale of the proposed development.
- 7.5.4. Having regard to the source-pathway-receptor conceptual model to identify the zone of influence, I have not identified any other sites which should be screened in and therefore agree with the conclusions of the applicant's screening exercise. Please refer to the screening exercise set out in Appendix 2 and a summary of the determination below.
- 7.5.5. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone [or in combination with other plans and projects] will give rise to significant effects on Coole-Garryland Complex SAC (000252) and Coole-Garryland SPA (004107) in view of the sites conservation objectives. Appropriate Assessment is required.
- 7.5.6. This determination is based on:
- The location of the site in close proximity to 2no. European Sites and the potential for construction and operational stage pathways and sources of pollutants.
 - The qualifying interests and conservation objectives of those sites.
 - The scale of the proposed development and characteristics.

- The permitted connection to the Uisce Éireann wastewater network.
- The permitted stormwater management which discharges to the adjacent river.

7.5.7. Appropriate Assessment Conclusion

7.5.8. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Coole-Garryland Complex SAC (Site code 000252) and SPA (Site code 004107) in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of Sections 177U and 177V was required.

7.5.9. Following an examination, analysis and evaluation of the NIS all associated material submitted, I consider that adverse effects on site integrity of Coole-Garryland Complex SAC (Site code 000252) and Coole-Garryland SPA (Site code 004107) can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects.

7.5.10. My conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- Brownfield nature of the site with permitted services which are largely in place.
- The lack of potential for disturbance to mobile species due to the 1.3 and 1.5km separation distances to the European sites.
- The existing hydrocarbon interceptors and the dilution factor associated with the 7.5km downstream separation distance to the European sites.

7.5.11. The proposed development therefore complies with policy objectives NHB 2 and NHB 3.

7.6. Screening Determination for WFD

7.6.1. An assessment of the proposed development has been carried out in accordance with Article 4 of the Water Framework Directive and relevant EPA guidance, including best practice in sustainable drainage design.

- 7.6.2. The development incorporates appropriate surface water management measures, including Sustainable Drainage Systems (SuDS), designed to replicate greenfield runoff rates and provide treatment of surface water prior to discharge.
- 7.6.3. These measures ensure that there will be no increase in pollutant loading, no alteration of the receiving waterbody's hydrological regime, and no risk of deterioration in water quality or ecological status. Any residual risks identified during the assessment are capable of being addressed through standard mitigation measures and best practice construction management, including the implementation of an appropriate Construction Environmental Management Plan (CEMP).
- 7.6.4. The proposed development will not impact on the achievement of environmental objectives for any water body and is therefore considered compliant with the requirements of Article 4.

8.0 Recommendation

- 8.1.1. Having regard to the foregoing, I recommend that Substitute Consent should be GRANTED for the reasons and considerations set out below in section 9 subject to conditions.

9.0 Reasons and Considerations

Having regard to the nature, scale and extent of the development, and noting that the integrity of European Sites were not adversely affected in view of the sites' conservation objectives as set out above, and subject to compliance with the conditions set out below, the Commission is satisfied that the development would be in accordance with policy objectives CS2, NHB 2 and NHB 3 of the Galway County Development Plan 2022-2028 as well as the residential zoning objective in the Gort Local Area Plan 2025-2031 and to grant substitute consent for the development is, therefore, in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity.
2.	The period during which the development hereby permitted may be carried out shall be 5 years from the date of this Order. Reason: Having regard to the nature of the development, the Board considers it appropriate to specify a period of validity of this permission in equating to five years.
3.	The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented. Reason: To protect the integrity of European Sites.
4.	Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission Register Reference 08/2336 and any subsequent amendments unless the conditions set out hereunder specify otherwise. Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).
5.	Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide

	details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste. Reason: In the interest of public safety and amenity.
6.	Details of the materials, colours and textures of all the external finishes to the proposed dwellings and all boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.
7.	The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation unless otherwise agreed with the planning authority. Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.
8.	The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority. Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

9.	Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s). Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.
10.	The developer shall ensure that the development is served by adequate water supply and/or wastewater facilities and shall enter into a connection agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network. Reason: In the interest of public health and to ensure adequate water/wastewater facilities.
11.	Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Reason: In the interest of public health and surface water management.
12.	All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

	Reason: In the interest of sustainable transportation.
13.	The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Reason: To ensure the satisfactory completion and maintenance of this development.
14.	(a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing. (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing. (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in

	the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit. Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.
15.	Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination. Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.
16.	The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the

	application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme. Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Sarah O'Mahony

Planning Inspector

08th July 2026

11.0 Draft Board Order

In coming to its decision, the Commission had regard to the following:

- (a) the provisions of the Planning and Development Act, 2000, as amended, and in particular Part XA and the provisions of the Planning and Development Regulations, 2001, as amended;
- (b) the applicable national, regional and local planning policy provisions including the Galway County Development Plan 2022-2028 and Gort Local Area Plan 2025-2031;
- (c) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the remedial Natura Impact Statement and the conservation objectives, qualifying interests and special conservation interests for Coole-Garryland Complex SAC (Site code 000252) and Coole-Garryland SPA (Site code 004107);
- (d) the report and the opinion of the planning authority under section 1771 of the Planning and Development Act 2000, as amended;
- (e) the planning history of the site, as detailed in the Inspectors Report;
- (f) the report and recommendation of the Planning Inspector;
- (g) the planning history of the area;
- (h) the nature, scale, characteristics and location of the development, the subject of this application for substitute consent including in relation to potential significant effects on the environment and on the integrity of European sites in the area, and
- (i) the case put forward by the applicant as part of the subject substitute consent application that exceptional circumstances exist that would justify the grant for substitute consent.

Appropriate Assessment: Stage 1

The Coimisiún considered the Screening Report for Appropriate Assessment and all other relevant submissions and carried out an appropriate assessment screening exercise in relation to the potential effects of the proposed development on designated European sites. The Coimisiún noted that the development is not directly connected with or necessary for the management of any European Site and

considered the nature, scale, and location of the proposed development, as well as the report of the Inspector. The Coimisiún agreed with the screening exercise carried out by the Inspector.

The Coimisiún concluded that, having regard to the qualifying interests for which the sites were designated and in the absence of connections to and distance between the application site and the European sites, they could be screened out from further consideration and that the proposed development, individually or in combination with other plans or projects would not be likely to have significant effects on these European Sites or any other European Site in view of the sites' conservation objectives and that a Stage 2 appropriate assessment is therefore not required in relation to these European Sites.

The Coimisiún considered that an appropriate assessment of the implications of the development for the 2no. identified European Sites required further investigation.

Appropriate Assessment: Stage 2

The Coimisiún considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the development for Coole-Garryland Complex SAC (Site code 000252) and Coole-Garryland SPA (Site code 004107).

The Coimisiún considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment as well as the report of the Inspector. In completing the assessment, the Coimisiún considered the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, the mitigation measures which are included as part of the current proposal and the Conservation Objectives for these European Sites. In completing the Appropriate Assessment, the Coimisiún accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' Conservation Objectives.

In overall conclusion, the Coimisiún was satisfied that the development did not adversely affect the integrity of Coole-Garryland Complex SAC (Site code 000252)

or Coole-Garryland SPA (Site code 004107) or any other European Site in view of the sites' Conservation Objectives.

Likely Effects on the Environment/Environmental Impact Assessment

There are no likely effects on the environment and the requirement for EIA was screened out. The reasoned conclusion on environmental effects was up to date at the time of the decision.

Appendix 1 – Remedial EIA Pre-Screening

Case Reference	ACP-321910-25
Proposed Development Summary	Retention and completion of 8 dwelling houses and construct 32 dwelling houses
Development Address	Ballyhugh, Gort, Co. Galway
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	☒ Yes, it is a 'Project'. Proceed to Q.2.
	☐ No, no further action required.
(For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1.	EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	

☐ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.	No Screening required.
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold.	EIA is Mandatory. No Screening Required
☒ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	Class 10 (b)(i) Construction of more than 500 dwelling units. Threshold = 500 units. Proposal = 40 units Class 10 (b)(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. Threshold = 10ha Proposal = 1.67ha
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	Screening Determination required (Complete Form 3)
No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Form 2 - EIA Preliminary Examination

This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The development has a modest footprint, comes forward as a standalone project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The development is situated in an urban area on brownfield land which is abundant in the area, zoned and highly accessible. It is in close proximity to existing residential properties which is not exceptional in the context of surrounding development. The development is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the modest nature of the proposed development, its location removed from sensitive habitats, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
Conclusion	

Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ Date: _____

Appendix 2 – Appropriate Assessment

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Brief description of project	Retain and complete 8no. dwellings and construct 32no. dwellings.
Brief description of development site characteristics and potential impact mechanisms	The 1.67ha site is situated on the southern outskirts of Gort in County Galway and comprises an inactive construction site forming the final phase of an occupied housing scheme. The foundations and some wall plates of some units are visible and the remainder of the site comprises brownfield land where most topsoil has been removed and the land appears to have been subject to groundworks and disturbance. The Cannahowa River is situated 60m east of the site between landscaped public open space and agricultural land. The wider housing scheme is the subject of an Uisce Éireann connection agreement for water and wastewater services. The NIS states that surface water will discharge to the public drain in the local road adjacent to the site however the application drawings suggest there are operational discharge points to the adjacent river.
Screening report	No
Natura Impact Statement	Yes
Relevant submissions	GCC Chief Executive's report considers there is hydrological connectivity between the site and downstream European sites.
Step 2. Identification of relevant European sites using the Source-pathway-receptor model	

Note – the screening exercise provided in the rNIS is based on a 15km radius as well as any other sites outside this radius but within the zone of influence. It identified 28no. sites on this basis.

I consider the source-pathway-receptor model to be more appropriate to determine the zone of influence and in this regard have identified 5no. sites below for consideration.

European Site (code)	Qualifying interests	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Coole-Garryland Complex SAC 000252	7no. wetland, aquatic and terrestrial habitats. 1no. mammal Conservation Objectives 02 nd July 2024	1.3km	Yes via watercourse 7.5km downstream	Yes
Coole-Garryland Complex SPA 004107	Whooper swan Conservation Objectives 07 th February 2025	1.4km	Yes via watercourse 7.5km downstream	Yes
Lough Cutra SAC 000299	Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303] Conservation Objectives 30 th July 2018	2.8km	No	No
Lough Cutra SPA 004056	Cormorant (Phalacrocorax carbo) [A017]	2.9km	No	No

	Conservation Objectives 07 th March 2025			
Termon Lough SAC 001321	Turloughs [3180] Conservation Objectives 15 th January 2021	2.8km	No	No

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
Site 1: Coole-Garryland Complex SAC 000252	Impacts	Effects
Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150] Turloughs [3180] Rivers with muddy banks with Chenopodium rubri p.p. and Bidens p.p. vegetation [3270] Juniperus communis formations on heaths or calcareous grasslands [5130] Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210] Limestone pavements [8240]	Direct: None Indirect: Negative impacts (temporary) on surface water/water quality due to construction related emissions including increased sedimentation and construction related pollution and from the operational stage from surface water run off discharging to the river. Negative impacts from human presence and activity.	Disturbance/displacement Changes to habitat quality/ function Habitat loss/ modification Possibility of significant effects cannot be ruled out without further analysis and assessment

Taxus baccata woods of the British Isles [91J0] Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]		
Likelihood of significant effects from proposed development (alone): Uncertain		
If no, is there likelihood of significant effects occurring in combination with other plans or projects? Uncertain		
Possibility of significant effects (alone) in view of the conservation objectives of the site? Uncertain		
Site 2: Coole-Garryland Complex SPA 004107	Impacts	Effects
Whooper Swan (Cygnus cygnus) [A038]	Direct: None Indirect: Negative impacts (temporary) on surface water/water quality due to construction related emissions including increased sedimentation and construction related pollution and from the operational stage from surface water run off discharging to the river. Negative impacts from human presence and activity.	Disturbance/displacement Changes to habitat quality/ function Habitat loss/ modification Possibility of significant effects cannot be ruled out without further analysis and assessment
Likelihood of significant effects from proposed development (alone): Uncertain		
If no, is there likelihood of significant effects occurring in combination with other plans or projects? Uncertain		

Possibility of significant effects (alone) in view of the conservation objectives of the site? Uncertain
Step 4 Conclude if the proposed development could result in likely significant effects on a European site.
It is not possible to exclude the possibility that proposed development alone would result significant effects on Coole-Garryland Complex SAC (000252) and Coole-Garryland SPA (004107) from effects associated with construction and operational stage surface water management or from disturbance. An appropriate assessment is required on the basis of the possible effects of the project ‘alone’. Further assessment in-combination with other plans and projects is not required at screening stage. Proceed to AA.
Screening Determination [insert into Inspectors Report] Significant effects cannot be excluded In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone [or in combination with other plans and projects] will give rise to significant effects on Coole-Garryland Complex SAC (000252) and Coole-Garryland SPA (004107) in view of the sites conservation objectives. Appropriate Assessment is required. This determination is based on: • The location of the site in close proximity to 2no. European Sites and the potential for construction and operational stage pathways and sources of pollutants. • The qualifying interests and conservation objectives of those sites. • The scale of the proposed development and characteristics. • The permitted connection to the Uisce Éireann wastewater network.

- The permitted stormwater management which discharges to the adjacent river.

Appropriate Assessment

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination, the following is an appropriate assessment of the implications of the proposed development to retain and complete 8no. dwellings and to construct 32no. dwellings, and all associated development in view of the relevant conservation objectives of Coole-Garryland Complex SAC (Site code 000252) and Coole-Garryland SPA (Site code 004107) based on scientific information provided by the applicant.

The information relied upon includes the following:

- Natura Impact Statement prepared by Whitehall Environmental,
- The conservation objectives prepared by NPWS 02nd July 2024 for the SAC and 07th February 2025 for the SPA.

The site-specific conservation objectives for the SPA were published on 07th February 2025 and are not reflected in the rNIS which is dated February 2025. The application was lodged on 14th February 2025 and therefore the information was available and the rNIS is deficient in this regard. The assessment below however has had regard to the updated SSCOs and I am therefore satisfied that the information provided is adequate to allow for Appropriate Assessment.

I also note that despite screening in the above two European sites, the rNIS does not identify any actual potential or likely impacts to the sites or their conservation objectives. It screens in the sites based on their proximity to the subject site as the SAC is situated 1.3km northwest and the SPA 1.4km northwest of the subject site. It also screens them in due to the 60m separation between the subject site and the Cannahowa River which is hydrologically connected to the European sites 7.5km downstream.

As it does not identify any impacts of any kind and does not recommend any site-specific mitigation but does set out general best practice and good housekeeping construction measures.

The appropriate assessment carried out below is based on a combination of the information presented in the NIS and the updated SSCOs. It also has cognisance of the site's location outside of any flood zone which is contrary to the Planning Authority's position. I note there is a notable landscaped buffer with operational surface water drains and networks situated between the site and the Cannahowa River and that the remainder of the housing estate is operational with no surface water management issues raised in the Chief Executive's report. I also note the permitted hydrocarbon interceptors which would prevent vehicle related pollutants entering the river.

Submissions/observations

None

NAME OF SAC/ SPA (SITE CODE): Coole-Garryland Complex SAC (Site code 000252)

Summary of Key issues that could give rise to adverse effects:

- Water quality degradation (construction and operation)
- Disturbance of mobile species

Qualifying features likely to be affected	Interest Conservation Objectives	Potential adverse effects	Mitigation measures (summary)
Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation	Maintain favourable conservation condition.	None – No likely potential for construction or operational stage contaminants or siltation to enter Cannahowa River and notwithstanding this, the 7.5km downstream separation distance will provide a significant dilution and buffer for any contaminants.	rNIS Section 6.3 Best practice pollution control measures and application of industry standard controls.
Turloughs [3180]	Restore favourable conservation condition.	None – No likely potential for construction or operational stage contaminants or siltation to enter Cannahowa River and notwithstanding this, the 7.5km downstream separation	

		distance will provide a significant dilution and buffer for any contaminants.	
Rivers with muddy banks with <i>Chenopodium rubri</i> p.p. and <i>Bidention</i> p.p. vegetation [3270]	Maintain favourable conservation condition.	None – No likely potential for construction or operational stage contaminants or siltation to enter Cannahowa River and notwithstanding this, the 7.5km downstream separation distance will provide a significant dilution and buffer for any contaminants.	
<i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130]	Restore favourable conservation condition.	None – No likely potential for construction or operational stage contaminants or siltation to enter Cannahowa River and notwithstanding this, the 7.5km downstream separation distance will provide a significant dilution and buffer for any contaminants.	
Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]	Restore favourable conservation condition.	None – No likely potential for construction or operational stage contaminants or siltation to enter Cannahowa River and notwithstanding this, the 7.5km downstream separation distance will provide a significant dilution and buffer for any contaminants.	
Limestone pavements [8240]	Restore favourable conservation condition.	None. No suitable habitat situated within or adjacent the site. Water quality is not listed as an attribute or target.	

Taxus baccata woods of the British Isles [91J0]	Restore favourable conservation condition.	None. No suitable habitat situated within or adjacent the site. Water quality is not listed as an attribute or target.	
Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]	Maintain favourable conservation condition.	No suitable habitat on or adjacent the site.	

NAME OF SAC/ SPA (SITE CODE): Coole-Garryland Complex SPA (Site code 004107)

Summary of Key issues that could give rise to adverse effects:

- Water quality degradation (construction and operation)
- Disturbance of mobile species

Qualifying Interest features likely to be affected	Conservation Objectives	Potential adverse effects	Mitigation measures (summary)
Whooper Swan (Cygnus cygnus) [A038]	Restore favourable conservation condition	None. The site does not provide any suitable breeding, roosting or grazing habitat for whooper swans. There is a sufficient separation distance between the subject site and SPA to prevent disturbance to the swans.	rNIS Section 6.3 Best practice pollution control measures and application of industry standard controls.

The Water Framework Directive requires monitoring of water quality and a classification of their status in terms of water quality as well as their risk of failing to meet the terms of the directive. Monitoring is carried out in cycles and I note the following data regarding the Cannahowa River since works commenced on the site in 2019:

2016-2021: Moderate status

2019-2024: Moderate status

In this regard the status of the river has not deteriorated since works have commenced.

In-combination effects

Plans and projects that could act in combination with the proposed development are detailed and assessed.

The list of plans and projects was prepared in February 2025 and I have assessed plans and projects published/announced in the interim as part of this assessment. The most notable is the adoption of the Gort Local Area Plan which was adopted fully in July 2025. It was subject to an SEA and NIS and I have not identified any potential for in-combination or cumulative impacts associated with the proposed development and implementation of the LAP.

Findings and conclusions

The applicant determined that following the implementation of mitigation measures the construction and operation of the proposed development alone, or in combination with other plans and projects, will not adversely affect the integrity of this European site.

Based on the information provided, I am satisfied that adverse effects arising from aspects of the proposed development can be excluded for the European sites considered in the appropriate Assessment. No direct or indirect impacts are predicted and I am satisfied that site specific mitigation measures are not required.

Reasonable scientific doubt

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

Site Integrity

The proposed development will not affect the attainment of the Conservation objectives of the Coole-Garryland Complex SAC (Site code 000252) and Coole-Garryland SPA (Site code 004107). Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

Appropriate Assessment Conclusion: Integrity Test

In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Coole-Garryland Complex SAC (Site code

000252) and Coole-Garryland SPA (Site code 004107) in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of Sections 177U and 177V was required.

Following an examination, analysis and evaluation of the NIS all associated material submitted, I consider that adverse effects on site integrity of Coole-Garryland Complex SAC (Site code 000252) and Coole-Garryland SPA (Site code 004107) can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- Brownfield nature of the site with permitted services which are largely in place.
- The lack of potential for disturbance to mobile species due to the 1.3 and 1.5km separation distances to the European sites.
- The existing hydrocarbon interceptors and the dilution factor associated with the 7.5km downstream separation distance to the European sites.
- The proposed development will not affect the attainment of conservation objectives or prevent or delay the restoration of favourable conservation condition.